IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

UN	IITED STATES OF AMERICA)
	Plaintiff,) 8:08CR451)
	vs.) DETENTION ORDER
JO	HN BRIAN SMITH,) }
	Defendant.	}
A.	Order For Detention After waiving a detention hearing pursuant Act on December 30, 2008, the Court order pursuant to 18 U.S.C. § 3142(e) and (i).	to 18 U.S.C. § 3142(f) of the Bail Reformers the above-named defendant detained
B.	The Court orders the defendant's detention X By a preponderance of the evide conditions will reasonably assure the	because it finds: ence that no condition or combination of appearance of the defendant as required. t no condition or combination of conditions
C.	methamphetamine (Cour a minimum sentence of te life imprisonment. (b) The offense is a crime of (c) The offense involves a na	nd includes the following: e offense charged: ssession with intent to distribute at I) in violation of 21 U.S.C. § 841 carries en years imprisonment and a maximum of violence.
	may affect wheth X The defendant has the defendant has the defendant has the defendant of the defendant has the defenda	of the defendant including: appears to have a mental condition which her the defendant will appear. as no family ties in the area. as no steady employment. as no substantial financial resources. not a long time resident of the community. does not have any significant community. the defendant: as a history relating to drug abuse. as a history relating to alcohol abuse. as a significant prior criminal record. has a prior record of failure to appear at

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	Release pending trial, sentence, appeal or completion of sentence.
(c)	Other Factors:
	The defendant is an illegal alien and is subject to
	deportation.
	The defendant is a legal alien and will be subject to
	deportation if convicted.
	The Bureau of Immigration and Custom Enforcement (BICE) has placed a detainer with the U.S. Marshal. Other:
	ature and seriousness of the danger posed by the defendant's e are as follows: The nature of the charges in the Indictment.
X (5) Rebutt	table Presumptions
	rmining that the defendant should be detained, the Court also relied
	following rebuttable presumption(s) contained in 18 U.S.C. § 3142(e)
	the Court finds the defendant has not rebutted:
<u>X</u> (a)	That no condition or combination of conditions will reasonably
	assure the appearance of the defendant as required and the safety
	of any other person and the community because the Court finds that
	the crime involves:
	(1) A crime of violence; or
	X (2) An offense for which the maximum penalty is life
	imprisonment or death; or
	X (3) A controlled substance violation which has a maximum
	penalty of 10 years or more; or
	(4) A felony after the defendant had been convicted of two
	or more prior offenses described in (1) through (3)
	above, <u>and</u> the defendant has a prior conviction for one of the crimes mentioned in (1) through (3) above which
	is less than five years old and which was committed
	while the defendant was on pretrial release.
X (h)	That no condition or combination of conditions will reasonably
	assure the appearance of the defendant as required and the safety
	of the community because the Court finds that there is probable
	cause to believe:
	X (1) That the defendant has committed a controlled
	substance violation which has a maximum penalty of
	10 years or more.
	(2) That the defendant has committed an offense under 18
•	U.S.C. § 924(c) (uses or carries a firearm during and in
	relation to any crime of violence, including a crime of
	violence, which provides for an enhanced punishment
	if committed by the use of a deadly or dangerous
	weapon or device).

D. Additional Directives

- Pursuant to 18 U.S.C. § 3142(i)(2)-(4), the Court directs that:

 1. The defendant be committed to the custody of the Attorney General for confinement in a corrections facility separate, to the extent practicable from persons awaiting or serving sentences or being held in custody pending appeal; and
 - The defendant be afforded reasonable opportunity for private consultation with counsel; and

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3. That, on order of a court of the United States, or on request of an attorney for the government, the person in charge of the corrections facility in which the defendant is confined deliver the defendant to a United States Marshal for the purpose of an appearance in connection with a court proceeding.

DATED: December 30, 2008.

BY THE COURT:

s/ Thomas D. Thalken United States Magistrate Judge